

## 21 C.J.S. Courts § 70

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### Courts

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## II. Jurisdiction of Courts

### E. Mode of Acquiring Jurisdiction

#### 1. In General

§ 70. Res or property subject to jurisdiction by seizure, attachment, or like process

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

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**Jurisdiction of the res is generally obtained by a fairly effected seizure or attachment of the property under legal process, with constructive service of process on the persons whose rights therein are affected.**

In rem or quasi in rem jurisdiction is predicated on the presence of the res within the territorial jurisdiction of the court<sup>1</sup> and is obtained by a seizure,<sup>2</sup> attachment,<sup>3</sup> or garnishment.<sup>4</sup> The process is limited to property within the court's territorial jurisdiction, in the absence of personal jurisdiction.<sup>5</sup> In addition, if the property is the only basis of the court's jurisdiction, it must have a relationship to the cause of action in order to be attached and provide the court with a basis for quasi in rem jurisdiction.<sup>6</sup>

While notice to the property owner not jurisdictional for purposes of the res, the owner is given reasonable and fair notice of the action against the described property and an opportunity to be

heard.<sup>7</sup> With respect to the persons whose rights in the property are to be affected, in rem or quasi in rem jurisdiction may be obtained by constructive service of process.<sup>8</sup>

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## Footnotes

- 1 §§ 37, 38.
- 2 Pa.—*Com. v. Perez*, 941 A.2d 778 (Pa. Commw. Ct. 2008).  
Va.—*Ghameshlouy v. Com.*, 279 Va. 379, 689 S.E.2d 698 (2010).  
Wis.—*In re Return of Property in State v. Glass*, 2001 WI 61, 243 Wis. 2d 636, 628 N.W.2d 343 (2001).
- 3 N.Y.—*Hotel 71 Mezz Lender LLC v. Falor*, 14 N.Y.3d 303, 900 N.Y.S.2d 698, 926 N.E.2d 1202 (2010).
- 4 Md.—*Livingston v. Naylor*, 173 Md. App. 488, 920 A.2d 34 (2007).
- 5 N.Y.—*Hotel 71 Mezz Lender LLC v. Falor*, 14 N.Y.3d 303, 900 N.Y.S.2d 698, 926 N.E.2d 1202 (2010).
- 6 N.Y.—*Silvestre v. De Loaiza*, 12 Misc. 3d 492, 820 N.Y.S.2d 440 (Sup 2006).
- 7 §§ 37, 38.
- 8 Fla.—*Hitt v. Homes & Land Brokers, Inc.*, 993 So. 2d 1162 (Fla. 2d DCA 2008).